

Statement of Representative Edward J. Markey (D-MA)  
Ranking Democrat, House Subcommittee on  
Telecommunications and the Internet  
Introduction of  
“Spectrum Commons and Digital Dividends Act of 2003”  
March 20, 2003

Mr. Speaker, today I am introducing the “Spectrum Commons and Digital Dividends Act.” I am proposing this measure in order to advance three key goals: 1) establishment of a “Spectrum Commons;” 2) creation of a permanent public interest telecommunications trust fund for education technology grants; and 3) ensuring that sound wireless telecommunications policymaking is not unduly skewed by unrelated budgetary initiatives.

Spectrum Commons

Mr. Speaker, the legislation I introduce today promotes the goal of creating a “Spectrum Commons.” High tech manufacturers, entrepreneurs and the proverbial ‘kid in the garage’ could make more robust use of wireless communications if sufficient spectrum were available in unlicensed form for the general public. The bill requires the FCC to establish a 20 MHz band of contiguous frequencies below the 2 GHz band, as well as between 3 to 500 MHz located between the 2 GHz and 6 GHz bands. These swaths of airwaves would constitute the “Spectrum Commons” and therefore would remain open to the public and unlicensed. Such a public set-aside could foster the formation of an open platform for innovation, entrepreneurial activity, and public communications.

An unlicensed area of the airwaves will permit the public, through the use of ‘smart’ radio technology and better receiver equipment, to harness the airwaves for countless applications but only if the government is willing to give back to the public a portion of its own airwaves in such an unlicensed format. From “wi-fi” technology and low power “Bluetooth” wireless connections, to so-called “802.11” and successor protocols, wireless local area networks and Net connections, utilization of publicly available airwaves can help connect people and businesses in cost-effective and spectrum-efficient ways. Moreover, the designation of cleared bands at such different locations in the frequency spectrum sets the stage for varied applications to emerge reflecting the respective physical properties that such bands currently possess.

The “Spectrum Commons” will also help to propel economic growth and innovation by opening up the airwaves to new marketplace entry by individuals and entities unaffiliated with established network providers, such as incumbent cable, telephone, or wireless carriers. In addition, ensuring sufficient unlicensed spectrum would also militate against unhealthy consolidation of spectrum in the hands of too few providers.

Digital Dividends Trust Fund

Mr. Speaker, when the FCC does decide to proceed with auctions as a means of granting licenses for use of the public’s airways, I believe that the public deserves to reap the benefits of the sale of licenses to its airwaves. Yet these benefits should not only manifest themselves in the offering of new commercial services or the temporary infusion of cash into the Federal treasury as under current law. I propose in this legislation that the public should also enjoy the

“dividends” that can be reaped by reinvesting money raised through use of a public asset in a manner designed to promote educational technology projects, educational software R&D, as well as initiatives addressing the digital divide.

The bill I am introducing today creates a trust fund, capped at \$5 Billion, to cover any reasonable relocation costs incurred by Federal government users of the spectrum when they are moved to other frequency locations. This \$5 Billion figure does not represent the full extent of financial assistance available to Federal agencies, it merely reflects the amount that will be available to them through auction revenue. Any additional relocation costs above that amount can be paid for through the traditional appropriations process by which Congress operates and funds such necessary government costs and services.

The bill proposes taking any surplus auction revenue and creating a permanent trust fund (the “Digital Dividends Trust Fund”) from wireless auction revenue in order to fund such public interest telecommunications initiatives. Splitting the grants into two general categories – “human capital telecommunications investments” and “broadband infrastructure investments for public access and rural development” – the Digital Dividends Trust Fund authorizes grants for the following initiatives:

- Training of teachers & other personnel at schools and libraries eligible for E-rate funding;
- R&D for cutting-edge educational software designed to enhance learning in schools;
- Digitizing educational materials held in our nation’s libraries, archives, and museums;
- Technology projects supported by volunteers enrolled in AmeriCorps;
- Projects enhancing the access of individuals with disabilities to advanced telecommunications services;
- Retraining workers and unemployed individuals with skills applicable to the new economy;
- After-school programs for youth focused on computer literacy and interaction;
- Local and regional programs to expand access to advanced telecommunications in areas available to the general public;
- Broadband deployment to low-income housing and community centers and to unserved rural areas; and,
- Conversion of public radio and television broadcasting stations to digital broadcasting technology.

Finally, Mr. Speaker, it is important that telecommunications policymaking reassert itself in wireless policy, where for too long budget priorities have warped sound policy. Since Congress first enacted legislation in 1993 to permit the Federal Communications Commission (FCC) to distribute certain airwave licenses to the public through the use of auctions, the FCC has used this licensing mechanism numerous times and the U.S. Government has reaped billions of dollars for general revenue purposes. The initial principle behind auctions was to enhance telecommunications policy goals through the efficient licensing of frequency spectrum, where the revenue an auction raised represented an additional benefit to the taxpayer.

Over time, however, the use of auctions has become perverted. They are increasingly advocated primarily for purposes of raising general revenue irrespective of whether such auctions

advance sound telecommunications policy. Moreover, the money raised from auctions has been sent directly to the U.S. Treasury. The money from telecommunications auctions was not reinvested in order to enhance our democracy, bridge the digital divide, or promote public interest telecommunications projects. Instead, the auction of licenses for use of the public's airwaves has been subjected to the alchemy of budget scorers' intent on transforming thin air into gold.

Legitimate telecommunications policy objectives are often undermined by proposals to auction certain slices of the airwaves on a date dictated by budgetary scoring needs. Instead, auctions should only be scheduled once the appropriate telecommunications policy goals have been agreed upon and the conditions necessary for successful licensing through auctions have been secured.

This legislation requires the FCC, prior to scheduling upcoming auctions, to take action to achieve the timely transition to digital television by establishing rules governing must-carry issues, minimum programming and broadcasting requirements, and digital television receiver benchmarks. It also directs the NTIA and the FCC to take action to secure additional spectrum for advanced wireless services – including mobile services such as so-called “3G” services. Sound telecommunications policy, consistent with the public interest, would be greatly furthered by putting the “policy horse” back in front of the “auction cart.” The bill seeks to re-establish this principle in wireless policy.

Mr. Speaker, my Telecommunications and Internet Subcommittee colleague and chairman, Mr. Upton, has companion legislation addressing similar subject matter. I look forward to working with him, Energy and Commerce Committee Chairman Tauzin, Ranking Member Mr. Dingell, and other interested members on these telecommunications initiatives and hopefully, by working together constructively, we can achieve consensus legislation for the House to consider later this year.

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